

PCB #: HB 7121 PCB DS 06-02 Disaster Preparedness, Response, and Recovery
SPONSOR(S): Domestic Security Committee
TIED PCBS: **IDEN./SIM. PCBS:**

SUMMARY ANALYSIS

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes: The bill allows for motor fuel retail outlets that participate in the Florida Disaster Motor Fuel Supplier Program to receive a state tax credit of up to 25 percent of the value of the purchase of equipment and installation required by this program.

Safeguard Individual Liberty: The bill provides for the creation of a program that will empower businesses to operate during a disaster. This program will provide options to individuals when obtaining supplies and fuel to maintain normalcy before, during, and after a disaster strikes.

Promote Personal Responsibility: The bill clarifies that one of the goals of the public educational campaign on emergency preparedness issues is to promote the self-sufficiency of citizens for up to 72 hours following a disaster. The bill encourages the public to make arrangements for the care of individuals with special needs or in need of assistance, to be familiar with evacuation routes, disaster plans, shelter information, and fuel and consumer suppliers.

Empower Families: The bill decreases the burdens of government on families by providing options to obtain needed supplies for their families during a disaster. The bill provides families choices when making crucial decisions that will affect their safety and well-being during a disaster. The bill decreases the dependence of families on government support and/or assistance by educating the public regarding disaster preparedness. The public awareness program will specifically encourage families to prepare for disasters and review evacuation plans, thus increasing family stability.

Maintains Public Security: The bill increases the physical security of citizens and their property by providing citizens with options during disasters. These options will help families secure their homes and businesses. The Florida Disaster Motor Fuel Supplier Program assists health care facilities by enabling them to remain operational during a disaster and by assisting critical care workers to obtain fuel so they may return to work. If health care centers are able to remain operational, law enforcement may devote its time and energy to public security and disaster needs, such as recovery and rescue.

B. EFFECT OF PROPOSED CHANGES:

Background

Because of the very active 2004 and 2005 hurricane seasons, specifically the devastation left from Hurricanes Wilma and Katrina, a number of issues were raised across Florida on disaster preparedness, response and recovery. In an effort to better understand the issues specific to Florida's ability to deal with and recover from disasters, the Domestic Security Committee and the Health Care General Committee held two joint committee meetings to hear testimony and take comments on disaster-related issues. In conjunction with the Health Care General Committee's bill on special needs sheltering, the Domestic Security Committee has addressed areas of concern related to emergency supplies, availability of motor fuels, and disaster preparedness.

Effect of the Bill

Florida Disaster Supplier Program and the Florida Disaster Supplier Program Council

At present, supplies to communities are provided through government agencies and private assistance following a disaster. Businesses that are able to maintain power during a disaster or have an alternate power source may sell their goods and services. There are no identified State Emergency Response Team (SERT) businesses that provide needed supplies and fuel to the public and SERT members

following a disaster. There are no provisions that allow SERT members and critical care health providers to acquire fuel during a disaster.

The Florida Disaster Supplier Program Council (council) is established within the Department of Community Affairs to make recommendations to the Governor and Legislature on the creation of a voluntary Florida Disaster Supplier Program. The council consists of seven members, one from each of the operational regions of the Division of Emergency Management (division). The bill sets forth criteria for the council relating to:

- Election of a chair and vice chair;
- When the council shall meet;
- Duration of service;
- Vacancies on the council;
- Compensation for service; and
- Termination of the council as of July 1, 2008.

The duties and responsibilities of the council include recommending to the division:

- State disaster preparedness criteria necessary for implementation of this program;
- The most effective means of providing access to businesses partnering in this program to facilitate the operation, supply, and staffing of such businesses, as feasible, under emergency situations;
- A statewide system of certification during a disaster for suppliers of pharmaceuticals, food and water, building supplies, ice, and other categories deemed necessary by the council;
- If deemed necessary by the council, the assessment of an annual program membership fee for businesses voluntarily seeking to obtain certification as a state disaster supplier; and
- A State Emergency Response Team (SERT) logo bearing the name of the state of Florida and the type of supplies being provided by the supplier for display by businesses participating in this program.

The intended purposes of this program are:

- To provide statewide oversight of the availability and provision of necessary supplies prior to, during, and following a state of emergency or natural or manmade disaster or catastrophe;
- To assist in the rapid recovery of an area affected by a natural or manmade disaster or catastrophe and to immediately stimulate the post-disaster recovery of local economies; and
- To provide the public with alternative access to certain commodities as recommended by the council.

The bill provides that participation in this program is optional, with each county governing body choosing whether or not the county will participate. Counties choosing to participate must be responsible for administering this program within that county. The council will recommend guidelines and standards for participation. This program must allow businesses to participate even though the county in which the business is located may choose not to participate. This program is not intended to interfere with normal and ongoing commerce occurring at the local government level.

Businesses wishing to participate in this program must be certified through the county emergency management agencies, using certification standards developed by the council. If an annual program membership fee is assessed, the method of collection of said fee must be determined by the council. Program membership fees must be used, by the participating counties and state agencies, to recover administrative costs of this program or as recommended by the council.

By February 1, 2007, the council must submit a report on the development and implementation of this program to the Governor, the Speaker of the House of Representatives, and the President of the Senate. The bill provides criteria to be included in the report.

Motor Fuel Dispensing Facilities

Motor fuel terminal facilities supplying motor fuel to retail outlets around the state are currently not required to have an auxiliary source of electrical power. A lack of emergency electrical power in retail outlets creates a serious deficiency in the available mobile fuel supplies prior, during, and after a disaster has occurred. Fuel remaining in the storage tanks of retail outlets is inaccessible until primary electrical power is restored. The lack of available mobile fuel directly affects the evacuation, response, and recovery efforts in a disaster area.

The bill creates s. 526.143, F.S., requiring each motor fuel terminal dispensing facility to operate its distribution loading racks using an alternate power source for a minimum of 72 hours following a disaster. The emergency auxiliary equipment must be operational 36 hours after the disaster. All newly constructed or substantially renovated¹ motor fuel retail outlets, with a certificate of occupancy on or after July 1, 2006, must also have an appropriate transfer switch capable of operating all fuel pumps using an alternate power source. The bill requires local and state inspections of auxiliary equipment to be completed and proof of those inspections to be available before a facility may be deemed to be in compliance and able to participate in the fuel supplier program.

By December 31, 2006, all motor fuel retail outlets that are within one-half mile of an interstate highway or a state or federally designated evacuation route must be pre-wired with an appropriate transfer switch capable of operating all required equipment using an alternate power source within the following specifications based on population:

- 16 or more fueling positions located in counties with a population of 300,000 or more;
- 12 or more fueling positions located in counties with a population of 100,000 to 299,999 ; or
- 8 or more fueling positions located in counties with a population of 99,999 or fewer residents.

The bill requires installation and wiring to be completed by a certified electrical contractor, with owners of motor fuel retail outlets keeping documentation of such installation on site or at its corporate headquarters. Additionally, each retail outlet must maintain written records confirming periodic testing and ensured operational capacity of the equipment. These records must be made available, upon request, to the Division of Emergency Management and the county emergency management agency.

The requirement for motor fuel retail outlets to be pre-wired does not apply to:

- Automobile dealers;
- Persons who operate a fleet of motor vehicles; or
- Persons who sell motor fuel exclusively to a fleet of motor vehicles.

The bill provides a severability clause stating that if any provision of s. 526.143, F.S., or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of s. 526.143, F.S.

Florida Disaster Motor Fuel Supplier Program

This bill creates the Florida Disaster Motor Fuel Supplier Program within the Department of Community Affairs to allow motor fuel retail outlets, doing business in the state, to participate in a network of emergency responders authorized to provide fuel supplies and services before, during, and after a declared disaster. Participation in this program is optional. In counties choosing to participate, the local county emergency management agency will be primarily responsible for administering this program within that county. In counties choosing not to participate, the Division of Emergency Management (division) must have the authority to certify businesses as members of the State Emergency Response Team (SERT). The division must recommend guidelines and standards for participation.

Participation in this program must require certification, which will be established by the division or the county emergency management director no later than July 1, 2007. Businesses that are certified will be issued a SERT logo for public display to alert responders and the public that the business is capable

¹ Substantially renovated is defined as "...a renovation that results in an increase of greater than 50 percent in the assessed value of the motor fuel retail outlet."

of assisting in an emergency. Businesses certified as a SERT member must be able to provide fuel dispensing services to other SERT members within 36 hours after a disaster has occurred, or demonstrate the ability to have such service available, and agree to make such service available as needed. The bill provides for SERT members to sell motor fuel through a pre-existing contract with local, state, and federal response agencies or to provide point-of-sale service to such agencies. Additionally, SERT members may sell motor fuel to the general public, or may be directed to do so by the county or state emergency management officials. The bill provides for law enforcement security to be provided, if requested, to maintain civil order during operating hours.

SERT members must be given priority when purchasing fuel. Businesses who are SERT members may be directed to remain open for specified periods during a declared curfew to provide service for emergency management personnel. Under such direction, neither the SERT member nor the emergency management personnel will be in violation of such curfew. SERT members traveling during periods of declared curfews will be required to produce valid documentation of SERT membership.

Retail motor fuel outlets, designated as SERT members, may request priority consideration relating to re-supply of motor fuel to continue to provide fuel and necessary services to emergency responders. Emergency management agencies must take such requests into account when determining appropriate disaster response protocol.

Motor fuel outlets choosing to participate in this program may receive a tax credit from the Florida Department of Revenue (DOR) of up to 25 percent of the value of the purchase of equipment and the installation required to meet certification standards established by the Division of Emergency Management's local county emergency management director. The tax credit may not exceed \$15,000, and the bill provides for the DOR to develop forms and procedures related to applying for the tax credit.

The bill also preempts regulation of and requirements for the siting and placement of an alternate power source at motor fuel terminal facilities, wholesalers, and retail sales outlets to the state.

By March 1, 2007, the Department of Environmental Protections' Energy Office must review and provide a report to the Legislature, including the status of the motor fuel supply program and a list of participating retail fuel outlets.

Access to Residential Multi-Family Dwellings for Emergency Purposes

According to the 2001 and 2004 Florida Building Code,² multi-family residential high-rise buildings³ must have an emergency system that provides for emergency elevator operation and lighting. The 2004 building code intends for the emergency use of the elevator to be for evacuation, medical, and rescue assistance only. Certified inspectors that conduct annual elevator inspections must confirm that all installed generators are in working order and that a generator key is present in the lockbox at or near the installed generator. If the building does not have an installed generator, the inspector must confirm that the appropriate pre-wiring and switching capabilities are operational and a contract exists for an alternate power source.

This bill requires all multifamily dwellings, as defined in the 2004 Florida Building Code, as well as all newly constructed multifamily dwellings that are at least 75 feet high and contain a public elevator, to have at least one public elevator that is capable of operating on an alternate power source, and for a specified number of hours each day over a 5-day period following a disaster that disrupts the normal supply of electricity. The alternate power source, which controls elevator operation, must also be capable of powering any connected fire alarm system in the building, as well as all required emergency lighting to portions of the building used by the public.

Each multi-family dwelling must have an available generator and fuel source on the property or have proof of a current guaranteed service contract for such equipment and fuel source for elevator

² ss. 1016.2 and 1006.2, F.S., respectively.

³ Defined as buildings having occupied floors located more than 75 feet above the lowest level of fire department vehicle access.

operation on an on-call basis within 24 hours after a request. Compliance with installation requirements and operational capability requirements must be verified by local building inspectors and reported to the county emergency management director by December 31, 2007. In regards to newly constructed multifamily dwellings, installation and operational capability requirements must be verified by local building inspectors and reported to the emergency management agency prior to occupancy.

The bill requires each person, firm, or corporation required to maintain an alternate power source under s. 553.509(4), F.S., to also maintain a written emergency operations plan detailing the sequence of operations before, during, and after a disaster or emergency situation. The bill provides criteria to be included in the operations plan, such as:

- A life safety plan for evacuation;
- Maintenance of the electrical and lighting supply; and
- Provisions for the health, safety, and welfare of the residents.

Additionally, the owners or operators of the multifamily dwelling must keep, on file, written records of inspections of all equipment, confirming that the equipment is properly maintained and in good working order, as well as any contracts for alternate power generation equipment. The written operations plan and inspection records are to be provided to local and state government agencies, when requested, for review. The bill requires the owner or operator of a multifamily dwelling to keep a generator key in a lockbox posted at or near any installed generator unit.

The bill also requires owners of multistory affordable residential dwellings for persons age 62 and older that are financed or insured by the United States Department of Housing and Urban Development, to make every effort to obtain grant funding at the federal or state level to comply with the requirements of s. 553.509(4), F.S. If this is not possible, the owner must develop a plan with the local emergency management agency to ensure that residents are evacuated to a place of safety in the event of a power outage resulting from a disaster or an emergency situation that disrupts the normal supply of electricity for an extended period of time. A place of safety may include, but is not limited to, relocation to an alternative site within the building or evacuation to a local shelter.

The bill revises the requirements for annual elevator inspections to confirm that:

- Installed generators are in working order;
- Inspection records are current;
- The lockbox with key are in the appropriate location;
- If the building does not have an installed generator, the appropriate pre-wiring and switching capabilities are operational; and
- A valid contract for alternate power is in effect.

Public Awareness Campaign

Florida law creates the Division of Emergency Management (division) within the Department of Community Affairs. One of the duties of the division is to institute a statewide public awareness campaign on emergency preparedness issues.⁴

In furthering that cause, the bill expands the information in the campaign to include:

- The personal responsibility of individual citizens to be self-sufficient for up to 72 hours following a natural or manmade disaster; and
- Relevant information on statewide disaster plans, evacuation routes, fuel suppliers, and shelters.

The bill provides for all educational materials to be available in alternative formats and mediums to ensure they are available to persons with disabilities.

The bill requires the division and the Department of Education to coordinate with the Agency for Persons with Disabilities to provide an educational outreach program on disaster preparedness and

⁴ s. 252.35(2)(i), F.S.

readiness to individuals who have limited English skills and identify persons who are in need of assistance but are not defined under special-needs criteria.

C. SECTION DIRECTORY:

- Section 1. Creates s. 252.63, F.S., establishes the Florida Disaster Supplier Program Council and the Florida Disaster Supplier Program, provides for the council's composition, governance, and duties.
- Section 2. Creates s. 526.143, F.S., establishes criteria for alternate generated power capacity for motor fuel dispensing facilities.
- Section 3. Creates s. 526.144, F.S., establishes the Florida Disaster Motor Fuel Supplier Program.
- Section 4. Amends s. 553.509(4), F.S., establishes criteria for alternate generated power source for residential multifamily dwellings providing emergency vertical accessibility.
- Section 5. Amends s. 252.35, F.S.; provides additional information to be included in the Division of Emergency Management's public awareness programs.
- Section 6. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill is estimated to have a negative fiscal impact of approximately \$5.1 million to state government in FY 2006-07.

2. Expenditures:

The Department of Agriculture and Consumer Services states that inspections required by this bill can be handled within existing resources.

Department of Community Affairs

	<u>FY 06-07</u>	<u>FY 07-08</u>	<u>FY 08-09</u>
Non-Recurring	\$ -	\$ 76,150	\$ 479,400
Recurring	<u>826,150</u>	<u>1,229,400</u>	<u>750,000</u>
Total	<u>\$826,150</u>	<u>\$1,305,550</u>	<u>\$1,229,400</u>

Florida Disaster Supplier Program Council total estimated cost: \$76,150 (years 1 & 2).

Florida Disaster Fuel Supplier Program total estimated cost: \$479,400 (years 2 & 3).

No additional resources needed (in year 1) if Governor's emergency management public education and outreach initiative is appropriated by the Legislature: \$750,000 (recurring). If the Governor's initiative is not appropriated, \$826,150 will be needed for year 1 with \$750,000 needed annually for years 2 & 3.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill may have an indeterminate positive fiscal impact on local government revenues from the collection of annual membership fees for local businesses that voluntarily seek to obtain certification as a state disaster supplier.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The direct economic impact on the private sector will include the purchase and installation of a transfer switch for each building unit or the purchase and installation of a generator. The transfer switch must be able to accept an alternate power source. The cost of the transfer switch is approximately \$6,000 to \$10,000 depending on the specifications of the building. The purchase of a generator costs approximately \$300 to \$500 per kilowatt.⁵ Cost estimates will vary depending on the size and needs of each building. Businesses can choose to contract with a service provider if they do not want to incur the cost of purchasing a generator. The service contract costs will vary depending on the need, size, and specification of the building.

The Florida Disaster Supplier Program Council (council) will be surveying local districts and local stakeholders to estimate the anticipated expenditures and costs of the Florida Disaster Supplier Program on the local level. Those costs will be included in the council's report, due February 1, 2007, to the Governor, the Speaker of the Florida House of Representatives, and the President of the Florida Senate.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties and municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

⁵ www.northerntool.com

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.